



PATENT
Attorney Docket 036870-5062-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Michael Zasloff <i>et al.</i>)	
)	
Application No. 09/885,247)	Group Art Unit: 1617
)	
Filed: July 13, 2000)	Examiner: Theodore J. Criares
)	
For: Therapeutic Uses for an Aminosterol Compound)	

RESPONSE TO RESTRICTION REQUIREMENT

In response to an Office Action dated September 3, 2004, the time for response to which has been extended by one month by the accompanying petition and fee payment, Applicants hereby elect to prosecute the claims of Group I (claims 1 and 6 (partially) and claims 5 and 12, drawn to a method of reducing serum cholesterol) with traverse. In addition, Applicants elect compound 1436 (depicted in Figure 1 and encompassed by claims 1, 5, 6 and 12) as the elected species.

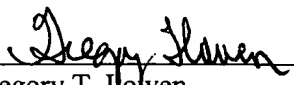
Applicants would like to bring to the Examiner's attention the presence of two errors in the office action, both dealing with the perceived number of pending claims. The subject application is the result of a converted provisional application. When the Request to Convert was filed on July 13, 2001, claims 2, 3 and 7-11 of the original 13 claims were canceled. Therefore, only claims 1, 4-6, 12 and 13 should be pending and available for examination. Thus, the bold-faced statement on page 2 of the office action that "claims 1-22 are presented for examination" is in error. Further, because claims 2, 3 and 7-11 have been canceled, Groups III, IV and V, as defined by the Examiner, are not available for election.

With regard to the traversal, Applicants submit that a search of the prior art for claims 4 and 13 in Group II would not represent an undue burden when conducting a search of the elected invention because they share the common structural feature of cause (serum cholesterol levels) and effect (atherosclerosis). As support, Applicants bring to the Examiner's attention claim 13 (assigned to Group II), which clearly links the control of cholesterol levels (subject matter assigned to Group I) to atherosclerosis (subject matter assigned to Group II).

Except for issues payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or to credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

Dated: **October 29, 2004**
Morgan, Lewis & Bockius LLP
Customer No. **09629**
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202-739-3000

Respectfully submitted,
Morgan, Lewis & Bockius LLP



Gregory T. Howen
Registration No. 46,882